

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1887.02
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	March 11, 2002
DATE OF REPORT:	April 23, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	July 19, 2002

COMPLAINT ISSUES:

Whether the Southwest School Corporation and the Greene-Sullivan Special Education Cooperative violated:

511 IAC 7-27-7(a) and 511 IAC 7-21-6 (d) by failing to provide assistive technology (AT) devices for the student's participation in Drivers' Education, as identified in the student's individualized education program (IEP).

511 IAC 7-25-7(b) by failing to complete an educational evaluation and convene the case conference committee (CCC) within 60 instructional days of the date of the parent's consent.

511 IAC 7-27-7(a) and 511 IAC 7-21-3 by failing to provide the student with an instructional day in accordance with the student's IEP that is the same length as the instructional day provided to nondisabled students in the same school building.

511 IAC 7-27-7(a) by failing to implement the student's IEP as written, specifically:

- (a) Failing to implement the student's vocational goals; and
- (b) Failing to include the student in the general education environment for at least 29% of the school day.

This report was originally due to be completed on April 10, 2002. However, on April 9, 2002, the associate superintendent granted an extension of time to April 19, 2002. A second extension of time was granted on April 19, 2002, with a new deadline of April 23, 2002.

FINDINGS OF FACT:

1. The student turned eighteen years old in July 2001 and has been determined eligible for special education services under the category of moderate mental disability.
2. The current IEP, dated April 19, 2001, states that the student is to be provided with a tape recorder to be used for recording the student's answers to essay questions in the Driver's Education class.
3. The parent contends that the student was not provided with a tape recorder the first day to record the test answers he gave to the aide.
4. Because a tape recorder was not provided on the first day of class by the school, the

parent reports she sent a tape recorder to school the second day of Driver's Education class but did not provide a tape for it. The school did not have a tape available on the second day but did provide a tape recorder and tape on the third day of class.

5. At the CCC meeting on April 19, 2001, the parent signed permission for additional testing. The final date for conferencing was written on the form as: "Date of Planning: April 19, 2001"; and "Re-evaluation Anniversary Date: 7/ 6/ 2001." The director noted in his cover letter that this evaluation had been overlooked because of the confusion created with the incorrect testing date being recorded by staff as April 19, 2002, the previous 3-year deadline for re-evaluation. Instead, at the CCC meeting, the parent had requested an additional evaluation, which was to be completed by July 6, 2001, but was begun the second week in March 2002, according to the mother. The director has proposed a change in the district procedures to eliminate this type of scheduling problem.
6. The student is regularly dismissed from the high school in a neighboring town at 2:45 pm, but the school dismissal time is actually 3:12 pm for general and special education students. The student's IEP, dated April 19, 2001, does not indicate that he is to have a shortened instructional day. The director acknowledged the shortened instructional day and offered the assurance that this infraction had been discussed with the superintendent and would be resolved.
7. The job shadowing vocational goals written into the IEP include working on vocational skills 1 hour per day for one semester. However, the job shadowing did not begin until March 18, 2002, almost halfway through the semester. The director acknowledged the failure to implement the IEP as resulting from a change in the staff assignment, which affected the student's ability to participate in job shadowing. The staff person's schedule has been changed, and job shadowing began on March 18, 2002.
8. The IEP states that the student is to receive special education services for 71% of the instructional time and be mainstreamed for 29% of instructional time. The two general education options available to the student are science and physical education. However, the student participates in a special education science class and does not participate in physical education class due to the bus schedule. The director indicated that the physical education class was discussed with the student, and because the student had turned 18 years of age and indicated he did not want to take the physical education class at another time, the school did not pursue the matter.

CONCLUSIONS:

1. Findings of Fact #2 through #4 indicate the school failed to implement the student's agreed-upon IEP, as written, by failing to providing the required assistive technology device for Driver's Education class, so that it could be utilized as described on the initial date services were to begin. While violations of 511 IAC 7-27-7(a) and 511 IAC 7-21-6(d) are found, the school took appropriate action and provided the tape recorder on the third day of class. Therefore, no corrective action is required.
2. Based on Finding of Fact #5, a violation is determined for failing to implement 511 IAC 7-25-7(b), in that the school failed to complete an additional evaluation and convene the case conference committee (CCC) within 60 instructional days of the date of the parent's signed request.
3. Finding of Fact #6 reflects that the student was subjected to a shortened instructional day with no explanation provided in the IEP for the shortened day. Therefore, violations of 511 IAC 7-27-7(a) and 511 IAC 7-21-3 are found for failing to provide the student with an instructional day that

is the same length as the instructional day provided to nondisabled students in the same school building.

4. (a) Finding of Fact #7 indicates the job shadowing vocational class activity was to be initiated at the beginning of the semester, according to the IEP, but it was not provided until March 18, 2002. Therefore, a violation of 511 IAC 7-27-7 (a) is found.

(b) Finding of Fact #8 establishes that the student was not provided the classes in the general education setting, namely physical education or science, that would have provided the total hours in the general education setting required by the student's IEP. And, while the student may have said that he no longer wanted to participate in physical education class, the CCC was not assembled to modify the current IEP to accommodate a change in scheduled special education services in the general education setting. Therefore, a violation of 511 IAC 7-27-7(a) is found for failing to implement the student's IEP as written, failing to include the student in the general education environment for at least 29% of the school day.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Southwest School Corporation and the Greene-Sullivan Special Education Cooperative shall:

1. Reconvene the CCC to determine the nature and amount of compensatory services to be provided to the student as a result of:
 - a. the failure to provide assistive technology, as identified in the IEP,
 - b. the failure to complete an educational assessment and convene the case conference committee within 60 instructional days of the parent's consent for testing so that they may consider any changes that may be needed in the student's IEP as a result of information gained from that evaluation,
 - c. the failure to provide an instructional school day of the same length as the instructional day provided to nondisabled students in the same school building,
 - d. the failure to implement the student's vocational goals on the required initiation date and for the prescribed number of days, and
 - e. the failure to provide instruction in the general education setting for 29% of the instructional day.

The CCC's consideration and determination regarding compensatory services and the results of the reassessment shall be fully documented in the CCC Summary/Report. A copy of the CCC Summary/IEP shall be submitted to the Division no later than May 21, 2002.

2. Send a written memorandum to building administrators and CCC chairpersons regarding the requirement to provide students receiving special education services with the same length of instructional day as nondisabled students attending the same school building, unless the CCC determines the length of the student's instructional day shall be different, and documents the justification in the CCC report. A copy of the memorandum and a list of individuals to whom the memorandum was sent shall be submitted to the Division no later than May 13, 2002.